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REMARKS/ARGUMENTS

Prior to this Amendment, claims 1-8, 10-14, 16-18, 20, and 20-25 were pending in the application.

Claim 1 is amended to include the limitations of dependent claim 6, which is canceled, to further stress the concept of the installation station selecting a payload of software based on the computing environment information for a host device. Similarly, independent claim 7 is amended to include the limitations of dependent claims 10 and 11, which are canceled, and independent claim 18 is amended to include the limitations of dependent claim 20, which is canceled.

Independent claim 23 is amended to include the limitations of dependent claim 24, which is canceled, to stress that the installed software is configured based on thresholds calculated by a survey tools as part of gathering environment information.

Independent claim 25 is amended to stress that the payload that is being installed and later configured on the host device is systems management software, which differs from many other types of software in its need for configuration to run properly on a host device (which is not reconfigured to suit the software).

No new matter is added with support being found at least in the original claims and Applicant's specification at page 2, lines 3-14.

After entry of the Amendment, claims 1-5, 7, 8, 12-14, 16-18, 22, 23, and 25 remain in the application for consideration by the Examiner.

Claim Rejections Under 35 U.S.C. §112

Claims 1-6 were rejected under §112, first paragraph as not being supported as calling for requiring an ordering of steps. Claim 1 is amended to remove the limitation and address the rejection to facilitate prompt allowance of the claims.

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Claim Rejections Under 35 U.S.C. §103

In the Office Action, claims 7, 8, and 10 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 5,752,042 ("Cole") in view of U.S. Pat. No. 6,434,532 ("Goldband"). This rejection is traversed based on the following remarks.

Claim 7 is amended to include the limitations of dependent claims 10 and 11, which are canceled. As a result, claim 7 now calls for selecting payloads for two host devices based on computing environment information gathered from each host device. Further, claim 7 also calls for "after the installing of the transferred payloads, configuring the installed payloads at the first and second ones based on the differing environment." Hence, the method involves both selecting a payload of software based on the particular device's operating environment but also, configuring the software payload after installation based on that operating environment. The art of record fails to show or suggest these features of the claimed method, and hence, the rejection should be withdrawn.

With the Office Action dated December 22, 2004, the Examiner indicates that Cole fails to teach that the <u>installed software payload is configured based on computing environment information</u>. In rejecting claims 1 and 11, the Examiner asserts that the newly cited U.S. Pat. No. 5,247,683 ("Holmes") teaches configuring an installed software payload based on the host device computing environment in Figure 3, element 58, col. 1, lines 26-28 and 35-38. However, Holmes fails to teach or even suggest that installed software is loaded to suit the host device or system and then configured to suit that host device or system. Instead, Holmes clearly describes reconfiguring the host device itself to be able to run the software.

This is a very different solution to the problem of how to get loaded software to operate, and it is not applicable to the loading and running of systems management platforms which need to manage an operating device or system and typically cannot be installed "as is" with bugs and problems often needing to be

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resolved (for example, read Applicant's statement of the problem being addressed by his invention at page 2, line 29 to page 4, line 28). Hence, Holmes does not overcome the deficiencies of Cole and Goldband.

Specifically, Holmes in the first paragraph of its Summary describes transmitting software with a configuration build file to a system, finding other software configuration build files, combining the configuration build files, and "reconfiguring said workstation using said composite configuration build files" (emphasis added). There is no discussion here or elsewhere in Holmes of modifying the transmitted software but instead the workstation is configured to be able to run the software. As a further example, at col. 4, lines 54-68, Holmes describes configuring the device buffers to meet the needs of the installed software but does not discuss altering the installed software to suit the device computing environment. Note, the configuration build file defines the requirements of the software and is not developed to suit the workstation. For this reason alone, claim 7 is allowable over the combined teaching of Cole, Goldband, and Holmes.

Further, claim 7 includes limitations that make it clear the method is directed toward remotely managing the installation of the software payload from an installation station. Cole, in contrast, teaches that installation is performed solely by the download routine and service application in the client 14 (see Figure 1 and corresponding text), and this deficiency is not overcome by the teaching of Goldband. Hence, in "contrast to prior art installation methods, the method is not host-based" (see, Applicant's specification at lines 19-20 of page 5). Specifically, claim 7 calls for "in response to receiving the installation requests, establishing with the installation station a first active installation session and a second active installation session" and then "the transferring and installing of the payloads is remotely managed with the first and second active installation sessions at the installation station." Cole teaches that the client must send a selection to a server, the server provides addresses for the selected code updates, and then the

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download routine on the client acts to download the code updates from the content server, and this different then providing control by a single remote installation station over transmitting and installing. In the Response to Arguments, the Examiner states that it is immaterial whether a client is involved, but this argument ignores the language of claim 7 that call for an installation station and the use of a survey tool and an installation tool at the managed hosts to perform remote installation. For these additional reasons, claim 7 is allowable over Cole and Goldband. Claim 8 depends from claim 7 and is believed allowable as depending from an allowable base claim.

Additionally, the Office Action rejected claims 1-6, 11, 14, 16-18, 20, and 22-24 under 35 U.S.C. §103(a) as being unpatentable over Cole in view of Goldband and in further view of Holmes. The rejection of pending claims 1-5, 14, 16-18, 22, and 23 is traversed based on the following remarks.

Independent claims 1, 14, 18, and 23 each include limitations that require that the installed software payload be configured or modified based on the computing environment information. As a result, the reasons for allowing claim 7 over Cole, Goldband, and Holmes provided above are believed equally applicable to claims 1, 14, 18, and 23. More specifically, Holmes fails to teach that the installed software payload is modified or configured at all but instead teaches configuring the device upon which the software is installed.

Further, independent claims 1 and 23 call for the computing environment information to include thresholds based on the configuration of the host device and the "automated configuring comprises modifying the installed software payload based on the thresholds" (for claim 1). Claim 23 further calls for the thresholds to be calculated by the survey tool installed in the host device. The Office Action refers briefly to version information, but Applicant asserts that version information does not teach the "thresholds" of claim 1. Holmes is cited for teaching the threshold determination and use, but Holmes at col. 1 lines 26-28 and 35-38

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discusses drivers and buffers. This provides no suggestion of thresholds that are
gathered and/or collected by a survey tool and then used in configuring installed
systems management software based on such thresholds. Further, as discussed
above, Holmes fails to teach configuring or modifying installed software to suit a
workstation but instead teaches changing the configuration of the workstation to
suit the installed software, and hence, Holmes does not provide any relevant
teaching for configuring installed software and particularly, based on thresholds.
Because each of these features is not shown in the combined teaching of Cole,
Goldband, and Holmes, the obviousness rejection based on these references
should be withdrawn.

In addition to the reasons provided above for allowing claim 1, the following
remarks provided in the prior responses are still applicable and are presented for
completeness and clarity:

"Turning to Cole, the service application is described in col. 6, lines 46-55 as
being responsible for installing "the code updates" in the client 14. The
service application "replaces the stale file with the updated file" and then, the
"client is request to re-boot, and the operating system installs the listed code
updates during the re-boot." There is no teaching that the service
application second operates to configure the installed code updates. Cole
further fails to teach that such configuring of the installed software payload is
"based on the computing environment information" previously collected. It
should be noted that Cole is directed toward identifying updated versions of
already running software or updated or new versions of portions of software
packages and not a new package of software (see claim 23 where this "new"
feature is specifically claimed), and it is likely that the replacement versions
are written to run properly in most systems in which the prior version ran (or
manual configuration steps are typically provided or additional code
provided).

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Further, claim 1 calls for installation to be performed "automatically" by operation of the installation tool. In contrast, Cole teaches at least at col. 6, line 23, that the a list of potential code updates are presented to the user of the client 14, 15, 16 and then the client must make a selection. Hence, the skill of the operator comes into play in the effectiveness of the updating procedure as they client needs to select or approve proper code for installation. For at least these two reasons, claim 1 is allowable over Cole.

In the second point of the Response to Arguments, the Office Action stated that Applicant argued that Goldband does not teach "automatically". However, in the prior response, it was argued that Goldband fails to overcome the deficiencies of Cole, and claim 1 is believed allowable over the combination of Cole and Goldband. Specifically, Goldband was noted as only being cited for the concept of loading an installation agent or module onto a client from a remote location. Such installation by the agent may be "automated" but this does not teach Applicant's claimed invention. Goldband does not teach operating such an installation agent to configure the software after installation based on the previously collected computing environment information for the client or host. Clearly, Goldband does not teach that configuration includes modifying software after installation based upon thresholds noted in the configuration of a host device. The combination of Cole and Goldband fail to teach or suggest each feature of claim 1."

In the most recent Office Action, Holmes is not cited for overcoming these deficiencies of Cole and Goldband, and Holmes does not provide the missing teaching of these references.

As amended, claim 1 also calls for the installation station to perform "selecting the software payload from the differing ones based on the received computing environment information." Cole teaches that a list of potential code updates is created based on the operation of recognizer programs 42 (see col. 5

13-41 with reference to Figure 4), and then, the client must select the "payload"
from this list and "In response, the server 12 sends to the client 14 the FTP
addressing information for the selected code updates" (see, col. 6, lines 23-30).
The client performs the selecting of the payload from a narrowed list provided the
selection server 12 but the selection server does not create and deliver the payload
without operator intervention. The Response to Arguments indicates that the client
or operator is the installation station but Applicant continues to assert that the Cole
fails to teach creating and delivering a software payload <u>with an installation station</u>.

Claims 2-5 depend from claim 1 and are believed allowable at least for the
reasons for allowing claim 1. Additionally, claim 2 calls for the computing
environment to include "identification of modules for monitoring the host device."
Cole and Goldband are not directed toward installing monitoring software and
hence, fail to provide any teaching toward gathering such information about a host
device (e.g., Cole simply states that it collects "basic system information using
scout APIs" that comprises "system model, pre-load software level, BIOS level, and
information that is not likely to change often such as type of operating system"). No
discussion of this deficiency of the references is provided in the Response to
Arguments. For this additional reason, claim 2 is allowable over Cole, Goldband,
and Holmes.

Independent claim 14 is directed to a method with limitations similar to claim
1 but further calls for "performing modifications of the installed agent software
based on the output file to enhance operation of the installed agent software." In
the prior Response to Arguments, the Examiner indicated that Goldband teaches
installing a patch or update that enhance system operation. See, Goldband at col.
2, line 15-17. However, installing upgrades or patches is not the same as
performing modifications of installed software "based on the output file" with an
installation Daemon. The installed software of claim 14 may include or be a patch
or update, but claim 14 requires more in that the method must include modifying the

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installed software with the installation Daemon – not with more installations of software – based on the output file. In the most recent Office Action, Holmes is instead cited for configuration of installed software, but as discussed above, fails to provide such teaching. For these additional reasons, claim 14 is not made obvious by the teaching of Cole in view of Goldband and Holmes. Claims 16-17 depend from claim 14 and are believed allowable as depending from an allowable base claim. Additionally, see the reasons for allowing claim 2.

Independent claim 18 is directed to a network system adapted for monitoring an operating computer system. Claim 18 calls for the installation tool to modify the installed systems management software based on collected environment information. Hence, as with claim 1, the software may be "pre-configured" but it is also modified after installation, which is not shown by Cole or Goldband or Holmes.

Further, Cole and Goldband fail to teach transmitting a payload including systems management software to a host and then using such software to monitor the device with a remote service. Cole provides a method for installing code updates, and Goldband teaches using an installed agent to determine when updates and the like are required in a client device. Neither discusses a remote service monitoring the client device via an installed management software package. Hence, claim 18 is not taught or even suggested by the combination of Cole and Goldband. Claim 22 depends from claim 18 and is believed allowable as depending from an allowable base claim.

The remarks provided with reference to claim 1 are believed equally applicable to claim 23. Claim 23 calls for the environment information to include "thresholds" and the configuring to be performed based on such thresholds. Cole Goldband, and Holmes do not teach gathering threshold information or using it to configure already installed software.

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Further, in the Office Action on page 20, claim 25 was rejected under 103(a) as being unpatentable over Cole in view of Goldband and in view of Holmes and further in view of U.S. Pat. No. 5,421,009. This rejection is traversed based on the following remarks.

As with independent claims 1 and 7, claim 25 includes the limitation of second operating an installation tool to automatically configure an installed software payload based on computing environment information. Hence, the reasons for allowing claims 1 and 7 over Cole, Goldband, and Holmes are applicable to claim 25. Platt is cited for teaching "determining necessary commands from surveying a target system" and not for teaching configuring installed software and Applicant did not find such teaching in Platt. Hence, Platt fails to overcome the deficiencies of the other cited references, and the rejection should be withdrawn. Further, claim 25 calls for a survey tool to determine commands to run during installation of the software payload, which is clearly beyond the "basic" information collected in Cole. These commands are then run during installation by the installation tool. Platt's teaching at the cited col. 2, lines 12-18 is directed to booting an operating system and fails to teach commands to run during installation of a software payload, which is further defined in claim 25 to better distinguish such a payload from an operating system. For these additional reasons, claim 25 is believed allowable over the combination of Cole, Goldband, Holmes, and Platt.

Yet further, the Office Action rejected claims 12 and 13 as being unpatentable over Cole in view of Goldband and further in view of "Microsoft Computer Dictionary". Claims 12 and 13 depend from claim 7, which as discussed above, is allowable over Cole and Goldband. The Microsoft Computer Dictionary is not cited for overcoming the shortcomings of Cole and Goldband discussed with reference to claim 7, and Applicant believes this reference does not address these shortcomings. Hence, claims 12 and 13 are believed allowable over the cited references because these claims depend from an allowable base claim.
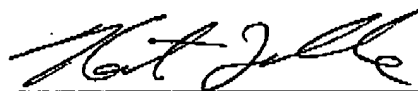
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Conclusions

Based on the above remarks, Applicant requests that a timely Notice of Allowance be issued in this case.

No fee is believed due for this submittal. However, any fee deficiency associated with this submittal may be charged to Deposit Account No. 50-1123.

Respectfully submitted,

_____March 10, 2005_____

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